

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 1301 of 1999

with

CIVIL REVISION APPLICATION No 1302 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?

4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?

5. Whether it is to be circulated to the Civil Judge? : NO

JAMABHAI BHAIJIBHAI

Versus

PADMA KUARBA VIJAYSHINA

Appearance:

MR AR MAJMUDAR for Petitioner

MR TUSHAR MEHTA for Respondent No. 1

MS SIDDHIS TALATI for Respondent No. 2

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 13/12/1999

ORAL JUDGEMENT

#. As in these two revision applications, a common
question of law and fact has arisen, same are taken up

for hearing together and are being disposed of under this common order.

#. Heard the learned counsel for the parties and perused the impugned order of the 2nd Joint District Judge, Panchmahals at Godhara. It is not in dispute that the petitioner was not a party in the proceedings before the Land Acquisition Officer. Before the reference court the applications were filed by petitioners for their impleadment as party and further they prayed for apportionment of the amount of compensation awarded for acquisition of lands in dispute. The learned trial court found as a fact that the petitioners have not produced any cogent and satisfactory evidence to show their right, title and interest in the land. The theory propounded by the petitioners that in 1979, the possession of the land was taken by respondent-State from them and they have been paid 3/4th amount as compensation has rightly been not accepted as in support of this fact, no cogent evidence has been produced. Till 9.7.99 they have not taken any objection anywhere in this respect. Moreover, the petitioners failed to give out any reason for their aloofness for 20 years in the matter. The contention raised by learned counsel for the petitioners before the court below that in 1986, the petitioners' name were shown in the revenue record has rightly been not accepted. The court below is correct that when the lands were taken by the Irrigation Department in the year 1979, how their names could have been shown or entered in the revenue record. The lands were submerged in canal and it could not have been possible to find out land of particular person submerged in the canal. The learned trial court has rightly observed that it appears to be a case where the petitioners have joined hands with the authorities. Moreover, for apportionment of the amount of compensation this application of the petitioners filed at such a belated stage cannot be allowed and rightly it has not been allowed. It is not a case where the order passed by the court below is perverse. During the course of arguments the learned counsel for the petitioners contended that before the trial court one document has been produced but the same has not been taken into consideration. However, when asked by the court, he failed to point out that any such ground has been raised in these revision applications. Then the learned counsel for the petitioners has taken instructions from the parties who are present in the court but they are also not in a position to show that any documentary evidence has been produced. The averments as made in the revision applications have to be accepted and it is a case where the petitioners have not produced any evidence in respect

of their claim and the court below has not committed any illegality, much less, a material irregularity in exercise of its jurisdiction in passing of the impugned order which calls for interference of this court under Section 115 of the Civil Procedure Code.

#. In the result, both these civil revision applications fail and the same are dismissed. Rule discharged. Interim relief, earlier granted by this court, stands vacated. In the facts of the case, no order as to costs.

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[sunil]